

15874-1/mmc

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
JOHN AND KIMBERLY VIDUREK,

Plaintiffs,

-against-

JOHN KOSKINEN, et al.,

Defendants  
-----X

**NOTICE TO PRO SE  
LITIGANT WHO  
OPPOSES A RULE 12  
MOTION SUPPORTED  
BY MATTERS OUTSIDE  
THE PLEADINGS**

Docket No: 17 CV 09064

Defendant Mary Madden has moved to dismiss pursuant to Rule 12(b) and for judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, and has submitted additional written materials. This means that the defendant has asked the court to decide this case without a trial based on these written materials. You are warned that the Court may treat this motion as a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. For this reason, THE CLAIMS YOU ASSERT IN YOUR COMPLAINT MAY BE DISMISSED WITHOUT A TRIAL IF YOU DO NOT RESPOND TO THIS MOTION by filing sworn affidavits or other papers as required by Rule 56(e). An affidavit is a sworn statement of fact based upon personal knowledge that would be admissible in evidence at trial. The full text of Rule 56 of the Federal Rules of Civil Procedure is attached.

In short, Rule 56 provides that you may NOT oppose the defendant's motion simply by relying upon the allegations in your complaint. Rather, you must submit evidence, such as witness statements or documents, countering the facts asserted by the defendant and rising issues of fact for trial. Any witness statement must be in the form of affidavits. You may submit your own affidavit and/or the affidavits of others. You may submit affidavits that were prepared specifically in response to defendant's motion.


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If you do not respond to the motion on time with affidavits or documentary evidence contradicting the facts asserted by the defendant, the court may accept defendant's factual assertions as true. Judgment may then be entered in defendant's favor without a trial.

If you have any questions, you may direct them to the *Pro Se* office.

DATED: Poughkeepsie, New York  
February 9, 2018

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